REMARKS

Reconsideration of the above-identified patent application is respectfully requested.

Claim 89 stands rejected under 35 U.S.C. § 112 as having insufficient antecedent basis for recitation of the limitation "counter roll." Claims 83-142 stand rejected under 35 U.S.C. § 102(b) as being anticipated by WO 97/46887 to Lundsgaard.

Summary of the Meeting With the Examiner

On June 10, 2010, an in-person interview was conducted at the U.S. Patent and Trademark Office to discuss the April 14, 2010 Office Action. Present at the interview were Samuel P. Siefke from the U.S. Patent Office, and the undersigned from the law firm of Barnes & Thornburg LLP on behalf of the applicant.

In the interview, claims 83, 119 and 121 were discussed in view of Lundsgaard, but no agreement was reached. However, the Examiner indicated that claim 121 would be distinguishable from Lundsgaard if amended to include recitation of a motor, separate from the movable pushrod, which drives movement of a movable magazine having the chamber containing the analytic consumable.

Applicant's Response Following the Examiner Interview

Claim 89:

Applicant has herein amended claim 89 to replace "counter roll" with --stationary conveyance base--, which has antecedent basis in new claim 143 from which claim 89

now ultimately depends. Applicant asserts that the 35 U.S.C. § 112 rejection of claim 89 has been obviated by applicant's amendment.

Claims 83-118:

Applicant has herein cancelled claim 83, and has submitted a new claim 143 in its place. Applicant has further amended claims 84, 87, 89, 92 – 96, 99, 101 – 104, 107 and 117 for consistency with the language of new claim 143 and/or to correct claim dependencies, and has cancelled claims 90 – 91. Applicant has also added an additional new claim 144, support for which can be found at ¶ [0025] of applicant's specification and in FIG. 2. No new matter has been added by these amendments.

New claim 143 is directed to a handheld analysis device for analyzing a sample for a medically significant component, comprising a stationary conveyance base, an analysis sensor situated on the stationary conveyance base such that an analytic consumable, configured to receive the sample, may be supplied along the conveyance base to the analysis sensor for analysis of the sample, and a drivable conveyance roll which, when driven, grips the analytic consumable between the drivable conveyance roll and the stationary conveyance base and moves the gripped analytic consumable along the stationary conveyance base. The stationary conveyance base supports thereon the analytic consumable as the drivable conveyance roll moves the analytic consumable along the stationary conveyance base. Support for the stationary conveyance base limitation can be found at ¶¶ [0022] – [0025] of applicant's specification and in FIG. 2. Support for the analysis sensor limitation is found at ¶¶ [0019] and [0029] of applicant's specification and in FIGS. 3 – 6. Support for the drivable conveyance roll limitation can be found at ¶¶ [0020] – [0023] of applicant's specification and in FIG. 2.

Applicant asserts that new claim 143 is patentably distinct from Lundsgaard. For example, Lundsgaard does not show or disclose a stationary conveyance base on which the analytic sensor is situated and that supports thereon the analytic consumable as the drivable conveyance roll moves the analytic consumable along the stationary conveyance base. While the vertical wall of the Lundsgaard detector 40 is stationary surface, this surface does not support thereon the analytic consumable as the drivable conveyance roll moves the analytic consumable along this surface as required by applicant's new claim 143.

As illustrated in FIGS. 4 and 5 of Lundsgaard, the detector is movable in directions (toward and away from) transverse to the longitudinal axis of the cuvette 14. Referring now to pg. 33, lines 5 – 35, Lundsgaard describes operation of the detector unit 40 with reference to FIGS. 4 and 5. In particular, the detector unit 40 is displaced toward the cuvette14 after the cuvette 14 is in the position 14' illustrated in FIG. 1, i.e., after the friction belt 20 has completed moving the cuvette 14 from the casing 6 to the "sample entry position" 14' adjacent to the detector 40. Thus, while the friction belt 20 is moving the cuvette 14 from the casing 6 to the detector 40, the stationary side surface of the detector 40 is not in contact with the cuvette 14 and therefore cannot support the cuvette 14 while the cuvette 14 is moved as required by new claim 143. Moreover, the detector 40 includes a number of pins (not shown in the FIGS.) which engage the holes 58 and 60 in the cuvette 14 (see FIG. 3) as the detector 40 is moved toward the cuvette 14 during coarse positioning of the detector 40 relative to the cuvette 14. Thus, as the detector 40 approaches, but prior to contact with, the cuvette 14, the pins extending

from the detector 40 substantially inhibit further movement of the cuvette 14 by the friction belt 20 relative to the detector 40.

Fine positioning of the detector 40 relative to the cuvette 14 is accomplished after the detector 40 makes contact with the cuvette 14 during which engaging and modulating elements of the detector 40 (not shown in the FIGS.) are transferred from an inoperable position to an operable position in which they engage the cone-shaped windows 44, 46, 48 and 50 of the cuvette 14. Thus, this final positioning of the cuvette 14 relative to the detector 40 accomplished not by movement of the friction belt 20, but rather by movement of components of the detector 40. Thus, no stationary component of the Lundsgaard system supports thereon the analytic consumable, e.g., the cuvette 14, as the drivable conveyance roll, e.g., the friction belt 20, moves the analytic consumable along such a stationary component. Lundsgaard therefore cannot anticipate applicant's new claim 143 because Lundsgaard does not show or disclose, either expressly or inherently, all of the limitations of applicant's new claim 143. Because claims 84 – 89, 92-118 and 144 depend from new claim 143, applicant asserts that these claims are therefore likewise patentably distinct from Lundsgaard.

Claims 119-120:

Applicant has herein amended claim 119 consistently with new claim 143, and applicant asserts that claims 119 -120 are patentably distinct from Lundsgaard for at least the same reasons given hereinabove in the previous section.

Claims 121-142:

Applicant has herein amended claim 121 as suggested by the Examiner during the in-person interview conducted June 10, 2010. More specifically, applicant has

amended claim 121 to recite a movable magazine having the chamber, and to further recite a first motor, separate from the movable pushrod, which drives movement of the magazine. New claim 121, as amended herein, is now believed to be patentably distinct from Lundsgaard. Applicant has further amended claims 123 – 127 and 140 for consistency with the new language of claim 121, and because claims 122 – 142 ultimately depend from claim 121, applicant asserts that these claims are therefore likewise patentably distinct from Lundsgaard.

Conclusion

Applicant has herein amended claims 84, 87, 89, 92 – 96, 99, 101 – 104, 107 and 117, 119, 121 – 127 and 140, cancelled claims 90 – 91 and submitted new claims 143 – 144 for substantive examination, and has traversed all grounds of rejection. Claims 84 – 89 and 92 - 144 are believed to be in condition for allowance, and such action is solicited. The Examiner is cordially invited to contact the undersigned by telephone to discuss any unresolved matters.

Respectfully submitted,

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